IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 3249 of 2005

Between:

Y. Brahmaiah, S/o. Sreeramulu,
R/o. 7-43/130, Maheshnagar, Hyderabad.

..... PETITIONER

AND

1 Government of Andhra Pradesh, rep by its prl. Secretary to Government, Social Welfare (C.V.2) Department, A.P. Secretariat, Hyderabad.
2 The District Collector, Khammam District, Khammam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the Memo No. 9544/CV-2/2004-1 dated 30-11-2004 of the 1st respondent as highly illegal, arbitrary, unjust and contrary to the Principles of Natural Justice and Rules 11(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) issue of Community Nativity and Date of Birth Certificate Rules, 1997 and consequently set aside the same and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: GP FOR SOCIAL WELFARE

The Court made the following:

ORDER:

Challenging the Memo No.9544/CV-2/2004-1 dated 30.11.2004 issued by the first respondent, the present writ petition is filed.

Aggrieved by the order dated 29.07.2004 passed by the second respondent, the District Collector, Khammam, cancelling the petitioner's social status certificate, the petitioner filed statutory appeal before the first respondent-Government along with an application for stay under Section 7 of the Andhra Pradesh (SC, ST & BC) Regulation of Issue of Community Certificate Act, 1993, *inter alia*, seeking stay of all further proceedings, which was rejected by the first respondent by order dated 30.11.2004, without assigning any reasons whatsoever, which is impugned in the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Social Welfare appearing for the respondents, and perused the impugned order.

The learned counsel for the petitioner contends that in the memo impugned, the first respondent did not assign any reason for rejecting the stay application filed by the petitioner against the order dated 29.07.2004 of the second respondent; hence the same is liable to be

set aside.

A perusal of the impugned memo would clearly show that no reason whatsoever was assigned in rejecting the application for stay filed by the petitioner. The first respondent ought to have passed a speaking order eliciting the circumstances under which the stay application was rejected.

Under those circumstances, the impugned Memo dated 30.11.2004 is set aside and the writ petition is disposed of with a direction to the first respondent to consider and pass appropriate orders in accordance with law on the appeal itself filed by the petitioner against the order of the second respondent dated 29.07.2004, within a period of two months from the date of receipt of this order. It is made clear that till such time, there shall not be any prosecution against the petitioner. If any such action is taken by the employer, the petitioner is at liberty to challenge the same before an appropriate forum. No costs.

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03.03.2005

VGB

To

1 The Principal Secretary to Government, Social Welfare (C.V.2) Department,

Government of Andhra Pradesh, A.P. Secretariat, Hyderabad.
2 The District Collector, Khammam District, Khammam.

3 2CCs to the G.P. for Social Welfare, High Court Buildings, Hyderabad

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